102d Congress, 1st Session - - - - - - - - - - - House Document 102-92

CONTINUATION OF THE WAIVER IN EFFECT FOR THE PEOPLE'S REPUBLIC OF CHINA

COMMUNICATION

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

NOTIFICATION OF HIS DETERMINATION THAT A CONTINUATION OF A WAIVER CURRENTLY IN EFFECT FOR THE PEOPLE'S REPUBLIC OF CHINA WILL SUBSTANTIALLY PROMOTE THE OBJECTIVES OF SECTION 402, OF THE TRADE ACT OF 1974, PURSUANT TO 19 U.S.C. 2432(d)(1)

MAY 29, 1991.—Referred to the Committee on Ways and Means and ordered to be printed

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Hon. THOMAS S. FOLEY,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: I hereby transmit a document referred to in subsection 402(d)(1) of the Trade Act of 1974, as amended, 19 U.S.C. 2432(d)(1) ("the Act"), with respect to the continuation of a waiver of application of subsections (a) and (b) of section 402 of the Act to the People's Republic of China. The document includes my reasons for determining that the continuation of the waiver currently in effect for the People's Republic of China will substantially promote the objectives of section 402, and my determination to that effect.

Documents concerning the extension of the authority to waive subsections (a) and (b) of section 402 of the Act, including a determination with respect to other countries and the reasons therefor, are transmitted separately.

Sincerely,

GEORGE BUSH.

THE WHITE HOUSE, *May 29, 1991.*

THE WHITE HOUSE

WASHINGTON

May 29, 1991

Presidential Determination
No. 91-36

MEMORANDUM FOR THE SECRETARY OF STATE

SUBJECT: Determination Under Subsection 402(d)(1) of the Trade Act of 1974, as Amended -- Continuation of Waiver Authority

Pursuant to the authority vested in me under the Trade Act of 1974, as amended, Public Law 93-618, 88 Stat. 1978 (hereinafter "the Act"), having determined, pursuant to subsection 402(d)(1) of the Act, 19 U.S.C. 2432(d)(1), that the further extension of the waiver authority granted by subsection 402(c) of the Act will substantially promote the objectives of section 402 of the Act, I further determine that the continuation of the waiver applicable to the People's Republic of China will substantially promote the objectives of section 402 of the Act.

You are authorized and directed to publish this determination in the Federal Register.

REPORT TO CONGRESS CONCERNING EXTENSION OF WAIVER AUTHORITY FOR THE PEOPLE'S REPUBLIC OF CHINA

Pursuant to Subsection 402 (d) (1) of the Trade Act of 1974 (hereinafter "the Act"), having determined that further extension of the waiver authority granted by Subsection 402 (c) of the Act for twelve months will substantially promote the objectives of Section 402, I have today determined that continuation of the waiver currently applicable to China will also substantially promote the objectives of Section 402 of the Act. My determination is attached and is incorporated herein.

Freedom of Emigration Determination

China's relatively free emigration policies have continued during the past twelve months. In FY 1990, 16,751 U.S. immigrant visas were issued in China. The U.S. numerical limitation for immigrants from China was fully met. The principal restraint on increased emigration continues to be the capacity and willingness of other nations to absorb Chinese immigrants, not Chinese policy. After considering all the relevant information, I have concluded that continuing the MFN waiver will preserve the gains already achieved on freedom of emigration and encourage further progress.

Chinese Foreign Travel Policies

China continues to adhere to a relatively open foreign travel policy. According to Chinese officials, issuance of passports for private travel has increased more than threefold since 1986. U.S. diplomatic posts in China issued 60,687 nonimmigrant visas in FY 1990. In FY 1990, 33,800 visas were issued worldwide to students and tourists from China, a 19 percent increase over FY 1989 and an 84 percent increase over FY 1988.

Chinese officials report that several thousand students have returned from overseas for visits after June 1989 and have been allowed to depart again under expedited procedures. We cannot verify these figures, but we are not aware of any cases in which Chinese living in the U.S. who returned to China for visits after June 1989 were prevented from leaving again.

Foreign travel officially sponsored by the Chinese Government, mainly involving businessmen and state-sponsored scholars, continued to decline in FY 1990, this reflects the effects of economic austerity measures and, in the case of scholars, concern about extended delays in their return to China. In February 1990, China issued a new directive requiring recent college graduates and fourth-year undergraduates to work for five years

before applying for overseas study, with some exceptions. The directive most likely has forced some students to defer their plans for overseas study, but its full impact is unclear since student visa applications and issuances continue to increase. We are aware of a small number of individuals who have had difficulty in obtaining permission to travel abroad, apparently because of the political activities of their relatives in the U.S. We have discussed these cases with Chinese authorities, who have indicated a willingness to address the issue.

Overall Human Rights Climate

In addition to the emigration considerations of Section 402 we are continuing to monitor closely the overall human rights climate in China and press our concerns vigorously at all levels of the Chinese Government. Beijing has taken a number of steps on human rights issues that we have urged since June 1989. No part of China is now subject to martial law. The vast majority of those detained in the wake of the 1989 demonstrations have been released. Over 1,000 prisoners were released since the beginning of 1990. Prominent dissident Fang Lizhi and his family were permitted to leave China in June 1990, and most relatives of Chinese citizens in the U.S. who sought to join them have been allowed to do so. Chinese diplomats have ceased threatening Chinese students residing in the U.S. Authorities in Tibet have avoided violence in quelling demonstrations since March 1989. Foreign officials and journalists are again able to visit the region, and even to tour the main prison in Lhasa.

Beijing hosted an unprecedented visit by Assistant Secretary Schifter in December 1990. The Chinese have agreed to receive additional human rights delegations from the Congress, Australia and France later this year. The Schifter visit inaugurated a more formal human rights dialogue than we have ever had with China. In recent weeks, Chinese officials have begun to respond to some of our key questions on the status of cases against the detainees, the judicial process, religious repression and family planning. They have also provided assurances that China's prohibition on prison exports would be enforced, and that no special restrictions would be placed on people wishing to join dissident relatives abroad.

I nonetheless still have serious concerns about the human rights situation in China. According to official Chinese figures, 813 persons have been convicted by courts in Beijing on charges stemming from the 1989 protests, including 26 so far this year. Most were charged with crimes against persons or property but nearly 100 of these were tried for "counterrevolutionary crimes" (e.g., instigation or organizing rebellious activities) that apparently involved nothing other than nonviolent political actions. At least scores if not more have been convicted elsewhere in China. Since 1989, others, probably including

peaceful demonstrators, have been sent to labor reeducation camps for up to three years after administrative hearings. Freedom of expression, religion, the press, and association remain tightly constrained. The Chinese continue to jam the Mandarin-language service of Voice of America.

In Tibet, participants in ongoing pro-independence activities continue to be subject to legal prosecution. Several hundred persons are currently incarcerated for what appear to be only nonviolent political activities.

Impact of MFN on Other U.S. Interests

The granting of MFN tariff status to China was a key element in the normalization of our diplomatic relations and provided a framework for a major expansion of our economic and commercial relations. Maintaining non-discriminatory tariff status is fundamental for strong bilateral trade relations with China. In 1990, bilateral trade totaled $20 billion, with Chinese exports of $15.2 billion and U.S. exports of $4.8 billion. The United States is China's largest export market, absorbing 25 percent of China's total exports.

If MFN were withdrawn, China would reciprocate by applying its own higher non-MFN tariffs to U.S. products and possibly erect other trade barriers as well. With U.S. companies placed at a disadvantage, competitors from Japan and Europe would quickly move to replace U.S. exports in our largest markets in China -- grain, aircraft and aerospace equipment, industrial machinery, steel products, chemicals, fertilizers and computers. U.S. joint ventures in China would pay higher duties on imported components from the U.S., and their exports to the U.S. would be subject to non-MFN tariffs, jeopardizing their continued operations. Loss of MFN would lead to higher prices for U.S. consumers of products made in China, including toys, apparel and footwear.

Maintaining MFN is essential for promoting reform in China. The opening of China and expansion of bilateral commercial relations made possible by MFN have contributed significantly to improving living standards, introducing progressive ideas and further integrating China into the world community as it continues its drive to modernize. Withdrawing MFN would most hurt the dynamic coastal provinces in China which have gone the farthest in introducing market-oriented economic reforms. It would further isolate those in China who look to the U.S. for support in their effort to liberalize Chinese society.

Withdrawing MFN would have a major impact on Hong Kong's free enterprise economy, which depends heavily on U.S.-China trade and the health of export industries in South China. The economic disruption which followed MFN withdrawal would further undermine confidence in Hong Kong's future.

While U.S.-China relations still cannot return to normal under current circumstances, withdrawing China's MFN status would harm vital U.S. interests. On a variety of global and regional issues, China has an important and sometimes crucial influence. As a permanent member of the U.N. Security Council, China voted for twelve resolutions on the Persian Gulf and abstained on two others, enabling all to pass. China's cooperation is also important for other U.S. foreign policy objectives, such as seeking peace in Cambodia, reducing tensions on the Korean peninsula, and restricting transfers of nuclear, CBW and missile equipment and technology.

In summary, maintaining non-discriminatory trade status gives China an incentive to stay engaged on issues of vital concern to the U.S., including human rights, non-proliferation, global and regional affairs and trade. I hope to work with the Congress to achieve these shared objectives.

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